

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Authorizing Permissive Use of the “Next)	GN Docket No. 16-142
Generation” Broadcast Television Standard)	

**REPLY COMMENTS OF THE PUBLIC BROADCASTING SERVICE,
CORPORATION FOR PUBLIC BROADCASTING, AND
AMERICA’S PUBLIC TELEVISION STATIONS**

The Public Broadcasting Service (“PBS”),¹ Corporation for Public Broadcasting (“CPB”),² and America’s Public Television Stations (“APTS”)³ (collectively, “PTV”) submit these reply comments in support of the Commission’s proposal in the above-captioned Notice of Proposed Rulemaking (“NPRM”) to adopt the Next Generation TV broadcast transmission standard, also known as ATSC 3.0, on a voluntary basis. As the dozens of comments filed in response to the NPRM show, Next Generation TV offers substantial benefits to consumers. PTV is eager to bring these benefits to our viewers – including interactive children’s educational content, robust emergency alerting services, mobile broadcasting, and improved accessibility

¹ PBS, with its 350 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 100 million people through television and nearly 30 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

measures. PTV urges the Commission to issue a rule permitting the voluntary transition to Next Generation TV without delay. In doing so, the Commission should adopt the “origination” approach proposed in PTV’s original comments and echoed throughout the broadcasting community to authorize Next Generation TV broadcasting.⁴ In addition, the Commission should reject calls to upend the long-established principle that multichannel video programming distributors (“MVPDs”) are responsible for their own costs in receiving and retransmitting “good quality” broadcast television signals.

I. The Record Shows That Broadcasters Are United Behind PTV’s Origination Approach.

PTV’s initial comments proposed that the Commission adopt an origination approach as the method for authorizing ATSC 3.0 broadcasting, rather than either the licensing or multicasting approaches described in the Commission’s NPRM.⁵ As that pleading outlines, the origination approach would establish a regulatory framework whereby, after receiving notice of a simulcasting agreement between two licensees, the Commission would ascribe each broadcast feed to the originating licensee rather than to the transmitting licensee. We explained that this method would achieve the *certainty* of the licensing approach along with the *simplicity* of the multicasting approach.

The broadcasting community agreed. The original petitioners for the Commission’s NPRM, including the National Association of Broadcasters (“NAB”), set forth a proposal in which “station A would file a letter informing the FCC that its ATSC 1.0

⁴ Comments of The Public Broadcasting Service, Corporation for Public Broadcasting, and America’s Public Television Stations, GN Docket No. 16-142 (filed May 9, 2017) (“PTV Comments”).

⁵ *Id.* at 11–13.

transmission would be transmitted from station B, and that station B's ATSC 3.0 transmission would originate from station A. The Commission would reflect this in a note on each station's existing license, so that station A's license would cover both its Next Gen signal on station A and its ATSC 1.0 signal on station B, while station B's license would cover both its ATSC 1.0 signal on station B as well as its Next Gen signal on station A.”⁶ Pearl TV, a partnership of eight major broadcasters, voiced its support for a “notification” model, in which “parties to a simulcasting agreement would notify the Commission when a programming stream would begin simulcasting. The station that originates the programming stream would have regulatory responsibility for that programming stream, rather than the host broadcaster that will be carrying it.”⁷ Raycom Media and TEGNA Inc. each voiced their individual support for the notification approach.⁸ Univision advocated a “‘light’ licensing model whereby an ATSC 3.0 stream is attributable to the originating licensee that is also transmitting in ATSC 1.0. . .”⁹ These proposals from across the industry and PTV's origination approach are essentially one and the same — all propose that ATSC 1.0 and 3.0 broadcast signals used throughout the transition to Next Generation TV should be treated as operating under the license of the originating station, not the transmitting station.

This concept garnered such widespread support because of its numerous benefits.

We highlighted several in our original filing: the origination approach reduces the regulatory burden that both broadcasters and Commission staff would have to assume under the licensing

⁶ Comments of America's Public Television Stations, the AWARN Alliance, the Consumer Technology Association, and the National Association of Broadcasters, GN Docket No. 16-142, at 15 (filed May 9, 2017) (“NAB et al. Comments”).

⁷ Comments of Pearl TV, GN Docket No. 16-142, at 5 (filed May 9, 2017) (“Pearl Comments”).

⁸ Comments of Raycom Media, GN Docket No. 16-142, at 3 (filed May 9, 2017); Comments of TEGNA Inc., GN Docket No. 16-142, at 3–4 (filed May 9, 2017).

⁹ Comments of Univision Communications Inc., GN Docket No. 16-142, at 4 (filed May 9, 2017) (“Univision Comments”).

approach; it enables agile station collaboration and responsiveness to changing community needs over the course of the transition; and it resolves issues that could arise under the multicasting approach, including the misallocation of existing compliance obligations and the potential exclusion of noncommercial stations due to the requirements of Section 399B of the Communications Act.¹⁰

Other broadcasters chimed in with additional benefits. As Univision stated, the approach is flexible. Different markets will require different approaches for deploying ATSC 3.0, and agreements to share transmission sites under the origination approach can be tailored to specific market characteristics.¹¹ As Pearl TV noted, the origination approach would actually simplify the negotiations underlying these agreements, given that Commission resources would not be required and the question of which party bears regulatory responsibility for a feed would already be resolved.¹² And as NAB explained, the approach would give the Commission clear enforcement authority over the originator of any programming that violates FCC rules, as well as a way to monitor the progress of Next Generation TV deployment in individual markets and across the country.¹³

Given the widespread support for the origination approach, the Commission should not hesitate to implement it for all television broadcasters in its final rule. In the event that the Commission does not wish to adopt this model for all stations participating in the transition, PTV urges that it at least do so for noncommercial educational (“NCE”) stations. This is because the origination approach particularly resolves two NCE-specific issues. First, as we

¹⁰ PTV Comments at 12–13.

¹¹ Univision Comments at 4–5.

¹² Pearl TV Comments at 6–7.

¹³ NAB et al. Comments at 16.

have stated above, it resolves the potential issue the Commission identified in the NPRM regarding NCE stations serving as host stations.¹⁴ Second, and on a related note, the origination approach would best enable commercial broadcasters to collaborate with NCE stations. Stations will be able to best serve their communities by finding a simulcasting partner in close geographical proximity. However, as many markets have only one NCE station, unless that station can enter into a simulcasting agreement with a commercial broadcaster, its ability to bring the benefits of Next Generation TV to its viewers will be severely limited. By adopting the origination approach, the Commission can empower NCE stations to better serve all viewers.

II. The Commission Should Not Disrupt Established Allocations of Costs Between Stations and MVPDs.

Under well-established practice, public television stations pay their own costs in delivering “good quality” signals to MVPDs, and MVPDs in turn pay their own costs in receiving and retransmitting those good quality signals to their subscribers.¹⁵ Certain representatives of MVPDs, however, suggest in comments that the Commission, in effect, punish a station for its voluntary deployment of Next Generation TV by requiring the station to cover both *its* costs *and* the costs that MVPDs may incur in receiving and retransmitting the station’s signal — including as to any ATSC 1.0 simulcast signal that the station makes available. Receiving and retransmitting broadcast signals is a basic cost of doing business for an MVPD, and the Commission should reject requests to shift that cost to public television stations.

¹⁴ Section 399B of the Communications Act states that “no public broadcast station may make its facilities available to any person for the broadcasting of any advertisement. 47 U.S.C. § 399B(b)(2). By utilizing the origination approach, Next Generation TV can be freely deployed in the market, as the content of a commercial ATSC 1.0 or 3.0 feed hosted by an NCE station would be attributed to the license of the originating commercial station.

¹⁵ See, e.g., 47 C.F.R. § 76.66(g).

To be clear, PTV does not believe that the Commission needs to make any decisions at this time regarding carriage obligations for ATSC 3.0 signals.¹⁶ However, PTV urges the Commission to promptly reject requests by certain MVPD representatives that stations in the meantime should bear MVPDs’ “costs incurred to receive and transmit ATSC 1.0 simulcasts.”¹⁷ PTV stations have been delivering good quality ATSC 1.0 signals for some two decades and MVPDs have been retransmitting those signals in some cases for nearly as long. Just as PTV stations do not look to MVPDs to bear the costs of broadcasting good quality signals to reach them, MVPDs should continue to be responsible for their own costs of receiving and retransmitting those signals. The fact that a PTV station may make its ATSC 1.0 signal available via an arrangement with a transmission partner is no basis for changing this well-established division of responsibilities.

¹⁶ See PTV Comments at 13–15. Furthermore, PTV urges the Commission not to consider the comments submitted by NCTA – The Internet & Television Association regarding the constitutionality of must-carry rules because PTV fundamentally disagrees with the notion that a variable signal or strained capacity could alter the constitutional analysis in this instance, and moreover, the issue raised by NCTA is not ripe for consideration by the Commission at this time because no suggestion has been made that carriage regulations should be modified in this proceeding. See Comments of NCTA – The Internet & Television Association, GN Docket No. 16-142, at 19 n.42, 22 n.50 (filed May 9, 2017).

¹⁷ Comments of the American Cable Association (“ACA”), GN Docket No. 16-142, at ii (filed May 9, 2017). For example, the American Television Alliance (“ATVA”) states that the costs to carry ATSC 1.0 simulcasts could require an upgrade to new receivers, demultiplexers, transcoders, and antennas, as well as costs associated with equipment storage, engineering studies, tower upgrades, and fiber feed upgrades. Comments of ATVA, GN Docket No. 16-142, at 8–13 (filed May 9, 2017). ACA likewise proposes that broadcasters should bear the costs for MVPDs to receive over-the-air broadcast signals, including antenna upgrades that ACA alleges may be necessary. Comments of ACA, GN Docket No. 16-142, at 2–4 (filed May 9, 2017). These are all basic costs of doing business for an MVPD and should continue to be borne by MVPDs to carry ATSC 1.0 simulcast signals.

III. Conclusion

PTV urges the Commission to promptly issue a rule permitting the voluntary transition to Next Generation TV. Public television stations are eager to bring this innovative standard and its public service benefits to communities across the country.

Respectfully submitted,

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